

**IN THE UNITED STATES DISTRICT COURT
OF THE DISTRICT OF COLUMBIA**

FREDDY MARTINEZ)
5810 South Kenneth Ave.)
Chicago, IL 60629)
)
Plaintiff,)
)
v.)
)
U.S. DEPARTMENT OF JUSTICE)
950 Pennsylvania Avenue, NW)
Washington, D.C. 20535)
)
Defendant.)

COMPLAINT

1. Plaintiff, FREDDY MARTINEZ, brings this Freedom of Information Act suit to force Defendant U.S. DEPARTMENT OF JUSTICE to produce Brian Benczkowski's calendar for September 2019 and October 2019. Brian Benczkowski currently serves as the Assistant Attorney General for the Criminal Division of the U.S. Department of Justice. In violation of FOIA, DOJ has failed to issue a determination on Plaintiff's request.

PARTIES

2. Plaintiff FREDDY MARTINEZ is a member of the media and made the FOIA request at issue in this case.

3. Defendant U.S. DEPARTMENT OF JUSTICE ("DOJ") is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

JURISDICTION AND VENUE

4. This case is brought under 5 U.S.C. § 552(a)(4)(B) and presents a federal question conferring jurisdiction on this Court. *See* 28 U.S.C. § 1331.

5. Venue is proper under 5 U.S.C. § 552(a)(4)(B).

OCTOBER 23, 2019, FOIA REQUEST

6. On October 23, 2019, MARTINEZ submitted a FOIA request to DOJ for “[a] copy of the calendar maintained by Brian Benczkowski, by himself [or] his staff, for the months of September 2019 to October 20[], 2019.” MARTINEZ also requested expedited processing. Exhibit A.

7. On November 21, 2019, having received no communication at all from DOJ, MARTINEZ asked DOJ for an update on the request, but DOJ never responded. Exhibit A.

8. On November 21, 2019, MARTINEZ appealed the constructive denial of the request, but DOJ never responded to the appeal, let alone acknowledge receipt of the appeal. Exhibit A.

9. As the date of this filing, DOJ has produced no records responsive to the request.

COUNT I – DOJ’S FOIA VIOLATION

10. The above paragraphs are incorporated herein.
11. DOJ is a federal agency and is subject to FOIA.
12. The requested records are not exempt under FOIA.
13. DOJ has refused to produce the requested materials in a timely manner.

WHEREFORE, MARTINEZ asks the Court to:

- i. declare that Defendant has violated FOIA;
- ii. order Defendant to conduct a reasonable search for records and to produce the requested records;
- iii. enjoin Defendant from withholding non-exempt public records under FOIA;
- iv. award MARTINEZ attorneys’ fees and costs; and
- v. award such other relief the Court considers appropriate.

Dated: December 3, 2019

RESPECTFULLY SUBMITTED,

/s/ Joshua H. Burday

Attorney for Plaintiff
FREDDY MARTINEZ

Matthew Topic, D.C. Bar No. IL0037
Joshua Burday, D.C. Bar No. IL0042
Merrick Wayne, D.C. Bar No. IL 0058
LOEVY & LOEVY
311 North Aberdeen, 3rd Floor
Chicago, IL 60607
312-243-5900
foia@loevy.com